



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 01 2017

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE  
  
NOW THE  
OFFICE OF LAND AND  
EMERGENCY MANAGEMENT

FOIA Request: EPA-HQ-2017-003409

Mr. Rodney Huerter  
4760 World Houston Parkway  
Houston, Texas 77032

Re: FOIA EPA-HQ-2017-003409

Dear Mr. Huerter:

Thank you for your FOIA request dated January 30, 2017, requesting copies of EPA guidance or policy documents that indicate "that a result for failure to comply with the advance notice requirements of section 270.72(a)(4) for change of owner or operational control of an interim status hazardous waste management facility is different from the result of a similar failure to comply with the advance notice requirements of section 270.40(b) for RCRA operating permits (i.e., not transferred)." We have no documents responsive to this request.

To the best of our knowledge, the Agency has not issued any guidance or policy statements specific to these notice requirements (to provide 90-day notice of transfer of ownership or operational control of permitted or interim status facilities) and potential enforcement consequences since the May 19, 1980 preamble included in your request.

The Agency strives to treat similar violations with parity. Given that the regulations for permitted and interim status hazardous waste management facilities each clearly require a notice within 90 days of the expected transfer of owner or operational control, if that requirement is not met, there would be potential enforcement consequences that would be determined in the context of the specific case.

In many instances, States have taken the lead role in implementation and enforcement of aspects of RCRA and they may also elect to adopt approaches that are more stringent than required by federal regulations. If the question has arisen as a result of specific circumstances, any relevant states should be consulted about potential enforcement responses.

This letter concludes our response to your request. You may appeal this response by email at [hq.foia@epa.gov](mailto:hq.foia@epa.gov), or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only). Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W.

If you are submitting your appeal via hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be made in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90 calendar day limit. Appeals received after 5:00 pm EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek assistance from EPA's FOIA Public Liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or (202)566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; e-mail, [ogis@nara.gov](mailto:ogis@nara.gov); telephone, 301-837-1996 or 1-877-684-6448; and facsimile, 301-837-0348.



Tricia Buzzell  
Environmental Protection Specialist  
U.S. EPA Office of Land and Emergency Management  
Office of Resource Conservation and Recovery

**Request Details****Tracking Number :** EPA-HQ-2017-003409

Submitted

Evaluation

Assignment

Processing

**Contact Information**

Full Name : Rodney <sup>Closed</sup> Huerter		Mailing Location : United States/U.S. Territories
Organization : Veolia North America	Address Line 1 : 4760 World Houston Parkway	
Email Address : rodney.huerter@veolia.com	Address Line 2 : Suite 100	
Phone Number :	City : Houston	
Fax Number :	State/Province : Texas	
	Zip Code/Postal Code : 77032	

**Request Information**

Agency : Office of Resource Conservation and Recovery	Request Phase : Processing
Will Pay Up To : \$25.00	Request Track :
Date Submitted : 01/30/2017	Complex
Estimated Date of Completion : 03/01/2017	Final Disposition : Undetermined

**Description :**

1733/2000

The instructions for the most current RCRA Part A permit application form states that facility "owners or operators with interim status are treated as having been issued a permit until the EPA reviews the Part B Permit Application and issues a RCRA hazardous waste permit ["RCRA operating permit"]." RCRA Hazardous Waste Part A Permit Application; Instructions and Form, EPA Form 8700-23 (Jan. 2015), at 19, 22–23 (the "Part A Instructions"). Changes in ownership and operational control of a facility "may only

**Request a Fee Waiver**

Made Request ? No

**Request Expedited Handling**

Made Request ? No

**Supporting Files**

Attached Files :

Attached File	Type	Size (MB)
<i>8700-23 (Jan. 2015).pdf</i>	PDF	0.97
<i>Pages from 45 FR 33,290 (5.19.80).pdf</i>	PDF	0.21

**Payments**

No payments to display.

**Invoice**

Total Amount Billed : \$0.00

Date Sent :

No invoice has been added.

**Correspondence with Requester**

Subject	From	Date	Detail
Re: R. Huerter letter	Rodney Huerter	2017-03-02	

Thank you. The EPA's response is consistent with other EPA guidance that I did not reference in my request (due to the allowed number of characters), including: **1)** a May 10, 1983 Federal Register preamble (**48 FR 21103, 21105** (stating "Ninety days is the same amount of advance notice that is required by EPA for transfers of facilities during interim status. (See 40 CFR 270.72)," and "The Director must get actual notice of the transfer before the **90-days advance notice period** begins. The permittee is therefore advised to send his notice by certified mail") (emphasis added); and **2)** at least one RCRA Online document (**RO 12200** (Apr. 1, 1984) ( "changes in the ownership of a facility may be made if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change ( 270.72 (d))" ) (emphasis added).

Subject

From

Date

Detail

If non-compliance with the change in ownership or operational control requirements under section 270.72 would, **counter to** the EPA's position with respect to the same requirements under section 270.40, not be treated as a nullity / non-transfer, it would arguably result in an anomalous situation that treats owners and operators who had been issued a final RCRA operating permit differently than owners and operators of facilities in interim status (i.e., seeking to eventually obtain a final RCRA operating permit to allow their continued active management of hazardous waste). That would be counter to other related EPA guidance. *Cf.* 52 FR 30570, 30571 (Aug. 14, 1987). Further, were the EPA to treat non-compliance with the plain and clear requirements of section 270.72 differently from the same language set forth under section 270.40, that would appear to grant to owners and operators of interim status facilities a competitive advantage over owners and operators who successfully obtained a final RCRA operating permit associated with their hazardous waste management activities. Other agency guidance indicates that the EPA desires to eliminate such disparate competitive advantages. *Cf.* 50 FR 38946, 38948 (Sept. 25, 1985).

Best wishes,

R.G. Huerter

*Reply*

R. Huerter letter

Valerie Ward

2017-03-01

03/01/2017 02:11 PM

FOIA Request: EPA-HQ-2017-003409

*R. Huerter-003409 LT.pdf*, PDF , 0.43 MB

*Reply*

FOIA Request EPA-HQ-2017-003409  
Submitted

2017-01-30

This message is to confirm your request submission to the FOIAonline application:  
[View Request](#). Request information is as follows:

Subject	From	Date	Detail
<ul style="list-style-type: none"> <li>• Tracking Number: EPA-HQ-2017-003409</li> <li>• Requester Name: Rodney Huerter</li> <li>• Date Submitted: 01/30/2017</li> <li>• Request Status: Submitted</li> <li>• Description: The instructions for the most current RCRA Part A permit application form states that facility "owners or operators with interim status are treated as having been issued a permit until the EPA reviews the Part B Permit Application and issues a RCRA hazardous waste permit ["RCRA operating permit"]." RCRA Hazardous Waste Part A Permit Application; Instructions and Form, EPA Form 8700-23 (Jan. 2015), at 19, 22–23 (the "Part A Instructions"). Changes in ownership and operational control of a facility "may only occur during the interim status period" in compliance with the regulatory provisions that govern such changes. See 45 FR 33290, 33324 (May 19, 1980) (emphasis on "only"). Specifically, a "revised Part A permit application is required 90 days prior to such a change . . . ." Id. (emphasis on "required" and "prior"); see also 40 C.F.R. 270.72 (a)(4); Part A Instructions, at 10. Notably, with respect to transfer of RCRA operating permits, which includes the same 90-day advance request, the EPA states that failure to comply with the advance notice requirement results in the permit not being transferred, and the "new owner or operator of the facility will be subject to enforcement for operating without a permit." Id. at 33314. I request complete copies of currently applicable EPA policy or guidance records that indicate that a result for failure to comply with the advance notice requirements of section 270.72(a)(4) for change of owner or operational control of an interim status hazardous waste management facility is different from the result of a similar failure to comply with the advance notice requirements of section 270.40(b) for RCRA operating permits (i.e., not transferred).</li> </ul>			

### Released Records

No records have been released.

**Request Details****Tracking Number :** EPA-HQ-2017-003409

Submitted

Evaluation

Assignment

Processing

**Contact Information**

Full Name :	Closed Rodney Huerter	Mailing Location :	United States/U.S. Territories
Organization :	Veolia North America	Address Line 1 :	4760 World Houston Parkway
Email Address :	rodney.huerter@veolia.com	Address Line 2 :	Suite 100
Phone Number :		City :	Houston
Fax Number :		State/Province :	Texas
		Zip Code/Postal Code :	77032

**Request Information**

Agency :	Office of Resource Conservation and Recovery	Request Phase :	Closed
Will Pay Up To :	\$25.00	Request Track :	Complex
Date Submitted :	01/30/2017	Final Disposition :	No records
Closed Date :	03/07/2017		

**Description :**

1733/2000

The instructions for the most current RCRA Part A permit application form states that facility "owners or operators with interim status are treated as having been issued a permit until the EPA reviews the Part B Permit Application and issues a RCRA hazardous waste permit ["RCRA operating permit"]." RCRA Hazardous Waste Part A Permit Application; Instructions and Form, EPA Form 8700-23 (Jan. 2015), at 19, 22-23 (the "Part A Instructions"). Changes in ownership and operational control of a facility "may only

**Request a Fee Waiver**

Made Request ? No

**Request Expedited Handling**

Made Request ? No

**Supporting Files**

Attached Files :

Attached File	Type	Size (MB)
<i>8700-23 (Jan. 2015).pdf</i>	PDF	0.97
<i>Pages from 45 FR 33,290 (5.19.80).pdf</i>	PDF	0.21

**Payments**

Date	Amount
03/07/2017	\$7.00
Total Invoice Amount	\$7.00
Total Amount Paid	\$7.00
Total Amount Owed	\$0.00

**Invoice**

Total Amount Billed : \$7.00

Date Sent : 03/07/2017

Title	Invoice Date	Amount
<i>EPA-HQ-2017-003409 Invoice 20170301.pdf</i>	03/01/2017	\$7.00

**Correspondence with Requester**

Subject	From	Date	Detail
Final Disposition, Request EPA-HQ-2017-003409	Valerie Ward	2017-03-07	

Subject	From	Date	Detail
EPA-HQ-2017-003409 has been processed with the following final disposition: No records.			

*EPA-HQ-2017-003409 Invoice 20170301.pdf*, PDF, 0.01 MB

Re: R. Huerter letter

Rodney Huerter

2017-03-02

Thank you. The EPA's response is consistent with other EPA guidance that I did not reference in my request (due to the allowed number of characters), including: **1)** a May 10, 1983 Federal Register preamble (**48 FR 21103, 21105** (stating "**Ninety days** is the same amount of advance notice that is required by EPA for transfers of facilities during interim status. (See 40 CFR 270.72)," and "The Director must get actual notice of the transfer before the **90-days advance notice period** begins. The permittee is therefore advised to send his notice by certified mail")) (emphasis added); and **2)** at least one RCRA Online document (**RO 12200** (Apr. 1, 1984) ("changes in the ownership of a facility may be made if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change ( 270.72 (d))") (emphasis added).

If non-compliance with the change in ownership or operational control requirements under section 270.72 would, **counter to** the EPA's position with respect to the same requirements under section 270.40, not be treated as a nullity / non-transfer, it would arguably result in an anomalous situation that treats owners and operators who had been issued a final RCRA operating permit differently than owners and operators of facilities in interim status (i.e., seeking to eventually obtain a final RCRA operating permit to allow their continued active management of hazardous waste). That would be counter to other related EPA guidance. Cf. 52 FR 30570, 30571 (Aug. 14, 1987). Further, were the EPA to treat non-compliance with the plain and clear requirements of section 270.72 differently from the same language set forth under section 270.40, that would appear to grant to owners and operators of interim status facilities a competitive advantage over owners and operators who successfully obtained a final RCRA operating permit associated with their hazardous waste management activities. Other agency guidance indicates that the EPA desires to eliminate such disparate competitive advantages. Cf. 50 FR 38946, 38948 (Sept. 25, 1985).

Best wishes,

R.G. Huerter

Subject	From	Date	Detail
R. Huerter letter	Valerie Ward	2017-03-01	
03/01/2017 02:11 PM			
FOIA Request: EPA-HQ-2017-003409			
<i>R. Huerter-003409 LT.pdf</i> , PDF, 0.43 MB			
FOIA Request EPA-HQ-2017-003409		2017-01-30	
Submitted			
<p>This message is to confirm your request submission to the FOIAonline application:  <a href="#">View Request</a>. Request information is as follows:</p> <ul style="list-style-type: none"> <li>• Tracking Number: EPA-HQ-2017-003409</li> <li>• Requester Name: Rodney Huerter</li> <li>• Date Submitted: 01/30/2017</li> <li>• Request Status: Submitted</li> <li>• Description: The instructions for the most current RCRA Part A permit application form states that facility "owners or operators with interim status are treated as having been issued a permit until the EPA reviews the Part B Permit Application and issues a RCRA hazardous waste permit ["RCRA operating permit"]." RCRA Hazardous Waste Part A Permit Application; Instructions and Form, EPA Form 8700-23 (Jan. 2015), at 19, 22–23 (the "Part A Instructions"). Changes in ownership and operational control of a facility "may only occur during the interim status period" in compliance with the regulatory provisions that govern such changes. See 45 FR 33290, 33324 (May 19, 1980) (emphasis on "only"). Specifically, a "revised Part A permit application is required 90 days prior to such a change . . . ." <i>Id.</i> (emphasis on "required" and "prior"); see also 40 C.F.R. 270.72 (a)(4); Part A Instructions, at 10. Notably, with respect to transfer of RCRA operating permits, which includes the same 90-day advance request, the EPA states that failure to comply with the advance notice requirement results in the permit not being transferred, and the "new owner or operator of the facility will be subject to enforcement for operating without a permit." <i>Id.</i> at 33314. I request complete copies of currently applicable EPA policy or guidance records that indicate that a result for failure to comply with the advance notice requirements of section 270.72(a)(4) for change of owner or operational control of an interim status hazardous waste management facility is different from the</li> </ul>			

Subject	From	Date	Detail
result of a similar failure to comply with the advance notice requirements of section 270.40(b) for RCRA operating permits (i.e., not transferred).			

**Released Records**

No records have been released.

# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 122, 123, 124, and 125

[FRL 1453-5]

### Consolidated Permit Regulations: RCRA Hazardous Waste; SDWA Underground Injection Control; CWA National Pollutant Discharge Elimination System; CWA Section 404 Dredge or Fill Programs; and CAA Prevention of Significant Deterioration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes consolidated permit program requirements governing the Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA), the National Pollutant Discharge Elimination System (NPDES) program and State Dredge or Fill ("404") programs under the Clean Water Act (CWA), and the Prevention of Significant Deterioration (PSD) program under the Clean Air Act, for three primary purposes:

(1) To consolidate program requirements for the RCRA and UIC programs with those already established for the NPDES program.

(2) To establish requirements for State programs under the RCRA, UIC, and Section 404 programs.

(3) To consolidate permit issuance procedures for EPA-issued Prevention of Significant Deterioration permits under the Clean Air Act with those for the RCRA, UIC, and NPDES programs.

**DATES:** These regulations shall become effective as follows: All regulations shall become effective as to UIC permits and programs July 18, 1980, but shall not be implemented until the effective date of 40 CFR Part 146. All regulations shall become effective as to RCRA permits and programs November 19, 1980. Part 124 shall become effective as specified in § 124.21. All other provisions of the regulations shall become effective July 18, 1980. For purposes of judicial review under the Clean Water Act, these regulations will be considered issued at 1 p.m. eastern time on June 2, 1980; see 45 FR 26894, April 22, 1980. In order to assist EPA to correct typographical errors, incorrect cross-references, and similar technical errors, comments of a technical and nonsubstantive nature on the final regulations may be submitted on or before July 18, 1980. The effective

date will not be delayed by consideration of such comments.

Comments on the scope and applicability of Executive Order 11990 and Executive Order 11988 to RCRA, UIC, and NPDES permits must be submitted on or before July 18, 1980.

Comments on requirements for Class IV wells must be received by July 15, 1980.

There will be a hearing on the requirements for Class IV wells on July 8, 1980, from 9 a.m. to 5 p.m.

**ADDRESSES:** Comments of a technical and nonsubstantive nature, as well as the comments concerning the scope and applicability of Executive Order 11990 and Executive Order 11988, should be addressed to: Edward A. Kramer, Office of Water Enforcement (EN-336), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Comments on requirements for Class IV wells should be addressed to: Alan Levin, Director, State Program Division (WH-550), Office of Drinking Water, Environmental Protection Agency, Washington, D.C. 20460.

The Public Hearing on Class IV wells will be held at: HEW Auditorium, 330 Independence Avenue, S.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Kramer, Office of Water Enforcement (EN-336), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 755-0750.

#### SUPPLEMENTARY INFORMATION:

##### Background

These final regulations consolidate requirements and procedures for five EPA permit programs. These regulations represent the major product of the Agency's permit consolidation initiative that began in the fall of 1978. They are based on the proposed consolidated permit regulations that were published in the *Federal Register* for comment on June 14, 1979 (44 FR 32854).

EPA program requirements and State program requirements are established for three programs:

- The Hazardous Waste Management (HWM) program under the Resource Conservation and Recovery Act (RCRA);
  - The Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA);
  - The National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act (CWA); and
- State program requirements only are established for:
- State section 404 "Dredge or Fill" programs under the CWA.

In addition, procedures for permit decisionmaking are established for the above four programs, and for

- The Prevention of Significant Deterioration (PSD) program under the Clean Air Act, where this program is operated by EPA or a delegated State agency under 40 CFR 52.21(v); these procedures do not apply to PSD permits issued by States to whom administration of the PSD program has been transferred. (See preamble to Part 124, Subpart C.)

These regulations are an important element of an Agency-wide effort to consolidate and unify procedures and requirements applicable to EPA and State-administered permit programs.

The Agency has also developed a single set of permit application forms for the programs covered by these regulations. These consolidated application forms are published elsewhere in today's *Federal Register*. They consist of a single general form to collect basic information from all applicants, followed by separate program-specific forms which collect additional information needed to issue permits under each program. The application forms in today's *Federal Register* include the general information form and the additional forms for certain water discharges under NPDES and for hazardous waste permits under RCRA.

When the draft consolidated application forms were published for public comment, they appeared along with a set of proposed NPDES regulations which were closely related to the contents of the application forms. Those accompanying regulations have now been integrated with the final NPDES regulations which appear as part of these consolidated permit regulations, and are summarized in the proper places in the preamble discussion. For a more thorough discussion and response to comments on those portions of the NPDES regulations, see the preamble to the consolidated application forms published elsewhere in today's *Federal Register*. Because the draft application forms and accompanying proposed NPDES regulations were originally published together, commented upon together, and are closely related, the detailed discussion of both forms and accompanying regulations has been retained in one place.

Many of the requirements in these regulations apply both to EPA programs and to State programs that receive EPA approval to operate in lieu of a Federal program in a particular State. These common requirements are intended to ensure that State permit programs satisfy minimum statutory and

to reflect the new ownership or operational control of the facility, although EPA has attempted to draft these requirements to achieve the least possible burden on property transactions consistent with adequate transfer of permit responsibilities.

First, EPA has retained the essential features of the proposal for NPDES facilities and UIC wells not injecting hazardous waste. Permits for these facilities may be transferred automatically, without requiring any affirmative act by the Director, but only if a written agreement for transfer of permit responsibilities is sent to the Director. The agreement no longer requires specific provisions as to liability for events occurring before and after the transfer, but only an agreement as to liability between the parties. For UIC facilities, the notice to the Director must also demonstrate that the requirements for financial responsibility will be met by the new permittee. Finally, the director must have the opportunity to require that the permit be modified to reflect the change in ownership or operation. In many cases the Director may feel that it is desirable to require the prospective new permittee to submit a permit application; see preamble to § 122.15(b).

For permits that are automatically transferred under this provision, the transfer-based cause for modification or revocation and reissuance (§ 122.15(b)(2)) survives the transfer, so that the Director can later modify the permit to reflect the new realities of the operation without holding up the transfer. However, after an automatic transfer is effective the permit will not be reopened to revoke and reissue the permit unless the permittee requests or agrees. Otherwise, the new permittee would be subject to having its entire permit rewritten at any time regardless of its relevance to the change brought about by the transfer. This is contrary to the certainty which these regulations attempt to give permittees during their fixed-term permits. Of course, the transferred permit may also always be terminated for cause, such as violation of the financial responsibility requirements.

Second, for RCRA facilities and UIC wells injecting hazardous wastes, EPA has determined that in all cases it will be necessary to modify the permits upon transfer of ownership or operational control of a permitted facility or activity. This provision is also applicable to 404 permits. This is necessary because these permits, unlike NPDES permits or certain UIC permits (other than the provisions for financial responsibility),

contain conditions which are personal to the permittee and which necessarily must change when the permittee changes. These include such conditions of the permit as the closure and post-closure plans, the contingency plan, and provisions for financial responsibility. In addition, because some of these conditions are incorporated in the permit on the basis of information which is submitted as part of the permit application, in most of these transfers a new permit application will be necessary as well. A new application will always be required when the permit is revoked and reissued. However, there may be some instances, such as a corporate-subsidiary transfer, where the modification would require no substantive changes in permit conditions but merely an updating to reflect the identity of the new owner or operator. In these cases, the transfer could be processed as a minor modification under § 122.17(d) if the Director receives an agreement for transfer of permit responsibilities. EPA believes that such an agreement is necessary even in these situations in order to assure adequate continuity of permit responsibilities.

This provision does not cover transfers of facilities under RCRA interim status. Provisions for such transfers may be found in § 122.23.

Because permittees need to know what provisions apply to permit transfers, final § 122.7(l)(3) now states that "this permit is not transferable to any person except after notice to the Director." The Director shall then proceed under the provisions of § 122.14.

Under this scheme, transfer in itself will no longer be a cause for termination of a permit. Rather, the permit will either be automatically transferred; transferred after a required modification or revocation and reissuance; or the permit will not be transferred but will remain with the prior owner or operator of the facility, and the new owner or operator of the facility will be subject to enforcement for operating without a permit.

EPA believes that in some instances final § 122.14 may be less burdensome than would have been possible in the proposal. For example, in the proposal an agreement for transfer of permit responsibilities was necessary in every instance of a transfer of a RCRA permit. In the final version, this is not necessary unless the transfer is to be handled as a minor modification. Also, in the proposed provision for automatic transfers, a new application was required whenever the Director objected to the transfer. Under these final

regulations, a permit may be modified without requiring a new application.

#### **§ 122.15 Modification or revocation and reissuance of permits.**

EPA has rewritten the permit modification section in two ways as part of the effort (see also §§ 122.9 and 122.13 and accompanying preamble) to provide greater certainty to permittees during the period when they hold permits and thereby make it easier to make business decisions and obtain financing. First, EPA has narrowed the circumstances under which a permit may be modified during its fixed term. Second, EPA has narrowed the scope of the changes that can be made when a permit of fixed but not lifetime duration is reopened during its term.

(1) The causes for modification have been narrowed. Normally, a permit will not be modified during its term if the facility is in compliance with the conditions of the permit. The list of causes for modifying a permit is narrow; and absent cause from this list, the permit cannot be modified. (However, State programs may always be more stringent than these requirements and an approved State program could provide additional causes.) In addition, certain "minor" modifications (§ 122.17) can be made, with the consent of the permittee, absent cause from the list in § 122.15.

First (see § 122.15(a)(1), proposed § 122.9(e)(1)), a permitted facility may change its operations in ways that were not contemplated in the original permit but which require regulation. This is one instance when compliance with a permit should not insulate the permit from modification. While in many cases a change in operations will violate the permit (giving rise to cause for modification under § 122.15(b)(1)), in other cases activities not limited in the permit will arise after the permit was issued. If permits could not be modified for such reasons then permits would have to be written to prohibit all activities not specifically limited in the permit. With such a requirement permittees would never be sure what the scope of permissible activities is under their permits. (State 404 permits, however, authorize only a specific activity for what is normally a short period of time and activities not authorized in the permit are prohibited; see § 123.97(b).) For NPDES, see the related causes for modification discussed below under § 122.15(a)(5)(viii) and (ix). Permittees have a duty to report all changes in the physical facility, and all other changes that may result in noncompliance, under § 122.7(l).

1. The owner and operator has obtained all necessary Federal, State, and local preconstruction approvals or permits; and

2a. A continuous on-site, physical construction program has begun or

2b. The owner or operator has entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for construction of the facility to be completed within a reasonable time.

It is intended that the continuous on-site, physical construction program include physical site preparation. Design and other non-physical and non-site specific preparatory activities alone would not constitute on-site, physical construction. Furthermore it is intended that structures or equipment constructed from a permanent part of the facility that are to be used in its own operation, and represent a substantial commitment to construction.

In general if the amount an owner or operator must pay to cancel construction agreements or stop construction exceeds 10% of the total project cost, the loss would be deemed "substantial". Options to purchase or contracts for feasibility, engineering, and design studies would not constitute contractual obligations.

EPA believes this provides an equitable and reasonable approach to facilities constructed prior to the promulgation of the RCRA regulations. A substantial commitment of resources by owners and operators in a period of uncertainty to provide for treatment, storage, and disposal of hazardous waste will not be penalized. All facility construction commenced after promulgation of the new RCRA hazardous waste regulations would be subject to the RCRA permit process.

(2) *Changes in the Facility During Interim Status.* A number of commenters raised questions as to whether a facility could be modified during interim status. Comments stated that facilities should be able to make such modifications during interim status as are: (1) needed to keep the facility in operations, (2) necessary in order to meet the section 3004 standards or (3) needed to insure full beneficial use of the facility. On the other hand is the concern that allowing such changes during interim status would provide a loophole to avoid the requirements for obtaining a permit (as would occur if the modification of an existing HWM facility was tantamount to construction of a new facility), or for submitting less major, but significant changes to a facility to the kind of review and cross-check that a fully effective permit would provide. In response to these comments the final

regulation sets forth the following approach to making changes in a facility during the interim status period.

Part A of the permit application basically defines the process which will be used for treatment, storage or disposal of hazardous wastes and the hazardous wastes to be handled at a facility during interim status. In order to make any changes in such items the owner or operator of the facility must submit a revised Part A permit application and in some instances such changes must be approved by the Director.

New hazardous wastes (not previously specified on the Part A permit application) may be handled if the application is revised prior to such a change. No approval of the Director is required in this instance. Furthermore additional quantities of hazardous waste (already specified on the permit application) may be handled at any time within the design capacity of the facility without revising the application.

Increases in design capacity or changes in the processes used at the facility may only be made upon submittal of a revised application and with Director approval. The Director may approve additional processes if he or she finds that they (1) are necessary because of an emergency situation; or (2) are necessary to comply with Federal, State or local laws. The Director may approve increases in the design capacity of the facility if he or she finds that this is necessary because of lack of available capacity at other facilities. In any of these instances the Director may inspect a facility prior to or after such a change and may disapprove a change that would result in a violation of the interim status standards.

Changes in ownership and operational control of a facility may only occur during the interim status period in accordance with the requirements of 40 CFR § 265.150. A revised Part A permit application is required 90 days prior to such a change so that the Director has an opportunity to determine whether such requirements are completed.

Finally, EPA will prohibit any changes to an existing facility during interim status which are so extensive as to amount to the construction of a new facility. Failure to do this would allow avoidance of the requirement that all sources which are in fact physically new go through the full permitting process before construction begins. For this purpose EPA has adopted the practice under the Clean Air Act of designating as a new facility any change that when completed would amount to more than 50% of the capital value of the facility.

The Agency believes that this approach to changes in a facility during interim status will allow reasonable modifications in existing facilities without creating a situation in which the requirements for obtaining a permit are nullified.

EPA believes that this approach represents a legally acceptable resolution to a question which the statute does not address.

Nothing in the statute provides that applicants are bound by their Part A application, and it has never been the practice when Congress requires existing facilities to come under permits to freeze their present patterns of operations until final agency action. Any such rule could have drastic consequences which Congress presumably did not intend, particularly since Congress explicitly recognized that several years might be necessary to process all RCRA permit applications. In addition, those consequences would be predominantly suffered by facilities which, because they are small or well operated, are low on the priority list of the permitting authority. To require affirmative action before such facilities could change their operations would not only be burdensome on them, but would divert the resources of the permitting agency toward such facilities and away from more urgent tasks.

At the same time, EPA does not believe that facilities which have not yet received a RCRA permit should be completely free of specific regulatory requirements. The existence of interim status standards grounded in the statute indicate that Congress intended such facilities to be subject to at least the outlines of the general RCRA scheme. In addition, the requirement to file a permit application as the price of interim status can only mean that the permitting agency can require updating of that application if it ceases to be accurate. Where the updated application indicated that the facility might cease to conform to the general RCRA regulatory scheme, EPA would be free to take enforcement action as these regulations provide.

(3) *Commencement and Termination of Interim Status.* The proposal provided that interim status began at the time the Director advised the applicant that his or her Part A application had been received. Commenters pointed out that under section 3005(e) of RCRA interim status is not granted by the Director, but begins at the time an application is submitted (and after notification under section 3010). EPA agrees with this interpretation and did not intend a different effect under these regulations. The acknowledgment was not an



United States  
Environmental Protection  
Agency

January 2015

# **RCRA Hazardous Waste Part A Permit Application**

## **Instructions and Form**

### **EPA Form 8700-23**

(OMB #2050-0024; Expires 01/31/2017)

Office of Resource Conservation and Recovery (ORCR)  
(5303P)  
Washington, DC 20460

**RCRA Hazardous Waste Part A Permit Application  
Instructions and Form**

The Resource Conservation and Recovery Act (RCRA) Section 3005 requires the U.S. Environmental Protection Agency (EPA) to establish permitting requirements applicable to hazardous waste treatment, storage, or disposal facilities (TSDFs). The owner and operator of a TSDF must obtain a permit as required under 40 CFR Part 270. Respondents must submit the information required in the RCRA Hazardous Waste Part A Permit Application [EPA Form 8700-23] (Part A Permit Application) for a first permit application or for a revised permit application. Owners and operators of four types of TSDFs are subject to the requirements: new facilities not yet constructed; newly regulated existing facilities subject to RCRA permitting requirements for the first time; permitted facilities with newly regulated units; and interim status facilities. The EPA needs information contained in the application to identify the person(s) legally responsible for hazardous waste activity, to determine which facilities require permits under more than one program, to assess potential for the facility to pollute nearby ground and surface waters, to identify the timeframe available for the EPA to process permit applications, and to determine the specific wastes a facility is legally allowed to handle for different purposes. The EPA must ensure that hazardous wastes are managed in a way that protects human health and the environment as required by RCRA. This is mandatory reporting by the respondents.

The EPA enters Part A Permit Application information submitted by respondents into RCRAInfo, the EPA national database, and issues permits. The EPA uses this information to identify the universe of regulated waste TSDFs and their specific regulated hazardous waste activities. The EPA also uses the information for tracking and planning and for a variety of enforcement and inspection purposes. Finally, the EPA uses this information to ensure that: hazardous wastes are managed properly; TSDFs are operated and maintained as required; statutory provisions are upheld; and that regulations are adhered to by facility owners and operators.

Section 3007(b) of RCRA and 40 CFR Part 2, Subpart B, which defines the EPA's general policy on public disclosure of information, both contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality covering all or part of the Part A Permit Application. If such a claim were asserted, the EPA must and will treat the information in accordance with the regulations cited above. The EPA also will assure that the information collection complies with the Privacy Act of 1974 and OMB Circular 108.

**Estimated Burden: Facilities** - The reporting burden associated with the Part A Permit Application requirements is estimated to average 12 hours for a facility to prepare and submit a new or revised Part A Permit Application and associated documentation. The recordkeeping burden is estimated to average 4 hours for a facility to read the regulations. **State Agencies** - The reporting burden associated with the Part A Permit Application requirements is estimated to average 2 minutes for a State agency to notify an applicant of a deficiency in a new Part A Permit Application. The recordkeeping burden is estimated to average 5 hours for a State agency to review a new or revised Part A Permit Application and associated documentation, and enter the permit information into the RCRAInfo database.

To comment on the EPA's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, the EPA has established a public docket for the Information Collection Request (ICR) under Docket ID Number EPA-HQ-RCRA-2014-0296, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search;" then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17<sup>th</sup> Street, NW, Washington, D.C. 20503, Attention: Desk Officer for the EPA. Please include the EPA Docket ID Number EPA-HQ-RCRA-2014-0296 and OMB Control Number 2050-0024 in any correspondence.

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[pages omitted]

You must submit a Part A Permit Application completing all forms included in this booklet. If you do not file a Notification of RCRA Subtitle C Activity and complete the Part A Permit Application by the deadlines specified in the **"WHEN SHOULD I FILE MY PERMIT APPLICATION?"** section of these instructions, you will be required by law to halt your operations until a RCRA hazardous waste permit is issued.

Facility owners or operators with interim status are treated as having been issued a permit until the EPA reviews the Part B Permit Application and issues a RCRA hazardous waste permit. You may submit your Part B Permit Application voluntarily; however, you are not required to submit it until it is requested by the EPA. You will then have up to six months to submit the Part B Permit Application.

## NEW FACILITIES

New hazardous waste management facilities are those hazardous waste TSDFs which were not in operation or for which construction had not commenced on or before November 19, 1980. Owners or operators of new hazardous waste management facilities must submit both Parts A and B of the RCRA Hazardous Waste Permit Application at least 180 days before physical construction of the facility is expected to commence. In addition, these owners or operators are not allowed to begin physical construction of the new facility or to treat, store, or dispose of hazardous wastes until receiving a RCRA hazardous waste permit. As such, new facilities do not receive interim status. In addition, new facilities are those facilities that are newly subject to the requirement to obtain a RCRA hazardous waste permit (e.g., through the EPA's promulgation of a new hazardous waste listing). An application for a permit may be submitted any time after promulgation of those standards in 40 CFR subjecting the facility to hazardous waste permitting requirements.

Most State governments are authorized by the EPA to administer hazardous waste management programs in lieu of the Federal RCRA program. You should contact your State hazardous waste management agency to determine any additional State requirements. You will need to comply with the specific permit application requirements of that State.

The following instructions provide specific information for completing and submitting a Part A Permit Application using the forms included in this booklet. The instructions also provide general information for completing a Part B Permit Application. If, after reading the instructions, you have any questions regarding the RCRA hazardous waste permit application process, contact your State Representative who can answer your questions and help you understand the Federal and State requirements that apply to you. A list of State contacts is available at:

<http://www.epa.gov/osw/inforesources/data/form8700/contact.pdf>.

## FIRST PART A SUBMISSION

Both new and existing facilities that treat, store, or dispose of regulated hazardous waste are required to submit a Part A Permit Application in accordance with the deadlines set forth in the **"WHEN SHOULD I FILE MY PERMIT APPLICATION?"** section of these instructions. Owners or operators of facilities that have not previously submitted a Part A Permit Application will need to submit a permit application for the first time. Examples of facilities making their first Part A submission are new facilities or existing

\* \* \* \*

[pages omitted]

## DETERMINING IF YOU MUST FILE

### WHO MUST FILE A RCRA HAZARDOUS WASTE PERMIT APPLICATION?

The Resource Conservation and Recovery Act of 1976 (RCRA), as amended, requires each person owning or operating a facility for the treatment, storage, or disposal of regulated hazardous waste to have a RCRA hazardous waste permit. This includes individuals, trusts, firms, joint stock companies, Federal agencies, corporations (including government corporations), partnerships, associations, States, municipalities, commissions, interstate bodies, other political subdivisions of a State, or Indian tribes (or an authorized Indian tribe organization). If you treat, store, or dispose of regulated hazardous waste without obtaining a permit, you may be subject to a civil or criminal penalty.

Both new and existing facilities that treat, store, or dispose of regulated hazardous waste are required to submit a RCRA Hazardous Waste Part A Permit Application [EPA Form 8700-23] (Part A Permit Application) as described in 40 CFR Part 270. Four types of facilities are required to submit the Part A Permit Application: new facilities not yet constructed; newly regulated existing facilities subject to RCRA permitting requirements for the first time; permitted facilities with newly regulated units; and interim status facilities.

In an instance where the State may have a newly regulated unit, a Part A Permit Application is required. Adding new units for treating, storing, and disposing of waste creates a change to the facility (be it an existing facility or interim status facility) which would require a Revised Part A Permit Application, as **does a major permit modification**.

Contact your State if you have questions about the applicability of the Part A Permit Application form to your facility. A list of Part A Permit Application contacts can be found at:  
<http://www.epa.gov/osw/inforesources/data/form8700/contact.pdf>.

### HOW DO I KNOW IF I HANDLE A REGULATED HAZARDOUS WASTE?

#### OFF-SITE FACILITIES

Owners or operators of off-site facilities that treat, store, or dispose of solid wastes, as defined by 40 CFR 261.2, are encouraged to obtain information on the solid wastes they receive from generators. If the generators will not supply this information, you are still responsible for determining if the solid wastes you handle are also hazardous wastes that are regulated by RCRA. To do so, you should follow the procedures for on-site facilities that are described below.

#### ON-SITE FACILITIES

Generators who treat, store, or dispose, on-site, their own solid wastes (as defined by 40 CFR 261.2), should employ the following procedures in determining if their solid wastes are hazardous wastes that are regulated by RCRA. This determination is made as follows:

\* \* \* \*

[pages omitted]

## NEW FACILITIES

Under 40 CFR 270.10(f), new facilities must submit both Part A and Part B Permit Applications at least 180 days before commencing physical construction of the facility. A permit must be received before construction begins.

## WHEN SHOULD MY PERMIT APPLICATION BE REVISED?

### FACILITIES OPERATING UNDER INTERIM STATUS

In accordance with 40 CFR 270.72(a), the owner or operator of a facility operating under interim status must submit a Revised Part A Permit Application at the following times:

- Prior to treating, storing, or disposing of new hazardous wastes not previously identified in the facility's Part A Permit Application. Similarly, when the EPA (or a State with an authorized RCRA program) promulgates a rule listing or identifying new hazardous wastes, facilities managing these wastes must revise their Part A Permit Application to reflect this activity.
- Prior to increasing the design capacity of the processes used at the facility. The EPA Regional Administrator (or the State Director, for an authorized State) must approve changes in capacity before they take effect at the facility.
- Prior to changing existing processes or adding new processes for treating, storing, and disposing of hazardous wastes at the facility. Changes in treatment, storage, and disposal practices must be approved by the Regional Administrator (or State Director) before they are implemented by a facility.
- Prior to undergoing a change in ownership or operational control of a facility.
- Whenever facility changes occur in accordance with an interim status corrective action order issued by the EPA, an authorized State, or by a court in a judicial action brought by the EPA or the State.
- When a facility adds units for the treatment, storage, and disposal of hazardous waste that are newly regulated by the EPA or a State. A Revised Part A Permit Application must be submitted on or before the date on which the unit becomes subject to the new requirements.

Changes in the quantity of hazardous waste currently specified in the first Part A Permit Application can be made without submitting a Revised Part A Permit Application, provided the quantity does not exceed the design capacities of the processes specified in the first Part A Permit Application or a subsequent Part A Permit Application.

Failure to furnish all information required to process a RCRA Hazardous Waste Permit Application is grounds for termination of interim status.

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[pages omitted]

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## OWNER TYPE

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Place an "X" in the box that **best describes** the owner type for your site. Select only one type: Private, County, District, Federal, Tribal (see below), Municipal, State, or Other. If your site's Owner Type could be described as Municipal **and** another Owner Type, such as County, District, or Tribal, do not place an "X" in Municipal. Instead, choose the other appropriate Owner Type. (For example, if your site's Owner Type is both Municipal and County, you would place an "X" in the box for County.) You may explain this in Item 13 – Comments.

**Tribal** – A member of one of the tribes/entities on the list of Federally recognized American Indian tribes and Alaskan Native entities located at: <http://www.epa.gov/tribal/whereyoulive/tribes-a-z.htm>.

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## LEGAL OWNER ADDRESS

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Enter the address of the legal owner. If the address and the Location of Site (Item 4) are the same, you can enter "Same as Item 4" in the box for Item 9.

Use the Comments section in Item 13 to list any additional owners, their names, the dates they became owners, owner type, mailing address, and which owner(s), if any, are no longer owners since your last submission of this form. If necessary, attach a separate sheet of paper. Remember to enter your site's EPA Identification Number in the top left-hand corner of each sheet.

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## B. NAME OF SITE'S OPERATOR

Provide the name of your site's operator. Please review these definitions:

**Operator** – The person responsible for the overall operation of a RCRA site. Note: This is the legal entity which controls the RCRA site operation rather than the plant or site manager. This is usually a company or business name, but may be an individual. See **Person**.

**Person** – An individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

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## DATE BECAME AN OPERATOR

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Indicate the date on which the above entity became the operator of your site. Enter dates as in this example: For April 22, 2015, enter 04/22/2015. This is a required field and a date must be reported.

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## OPERATOR TYPE

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Place an "X" in the box that **best describes** the operator type for your site. Select only one type: Private, County, District, Federal, Tribal (see below), Municipal, State, or Other. If your site's Operator Type could be described as Municipal **and** another Operator Type, such as County, District, or Tribal, do not place an "X" in Municipal. Instead, choose the other appropriate Operator Type. (For example, if your site's Operator Type is both Municipal and County, you would place an "X" in the box for County.) You may explain this in Item 13 – Comments.

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## 2. SHORT-TERM GENERATORS

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Mark "Yes" if the site is currently generating hazardous waste only as the result of a one-time, non-recurring, temporary event that is not related to normal production processes. In other words, short-term generators produce hazardous waste from a particular activity for a limited time and then cease conducting that activity. Short-term generators would not be considered episodic generators because episodic generators have the potential to generate on a regular basis (for example, a facility that fluctuates from SQG to LQG in one month is not a short-term generator). Examples of short-term generators include: (1) one-time highway bridge waste generation; (2) underground storage tank removals; (3) generation of off-spec or out-of-date chemicals at a site that normally doesn't generate hazardous waste; (4) remediation or spill clean-up at sites with no previous RCRA EPA Identification Number; and (5) site or production process decommissions by a new operator. If you mark "Yes", you must provide an explanation of your short-term generation event in Item 13 – Comments.

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## 3. U.S. IMPORTER OF HAZARDOUS WASTE

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Mark "Yes" if you import hazardous waste from a foreign country into the U.S. Refer to 40 CFR 262.60 for additional information.

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## 4. MIXED WASTE GENERATOR

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Mark "Yes" if you are a generator of mixed waste (waste that is both hazardous and radioactive). RCRA defines "mixed waste" as waste that contains both hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act (AEA), RCRA Section 1004(41), 42 U.S.C. 6903 (63 FR 17414; April 9, 1998). See the "DEFINITIONS" section.

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## 5. TRANSPORTER OF HAZARDOUS WASTE

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### a. Transporter

You transport hazardous waste within the U.S. The Federal regulations for hazardous waste transporters are found in 40 CFR Part 263.

### b. Transfer Facility (at your site)

You are a hazardous waste transfer facility, at your site, if you hold manifested hazardous waste(s) at your site for a period of ten (10) days or less while the waste is in transit. The Federal regulations for hazardous waste transfer facilities are found in 40 CFR 263.12.

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## 6. TREATER, STORER, OR DISPOSER OF HAZARDOUS WASTE (AT YOUR SITE)

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If you treat, store, or dispose of hazardous waste, mark "Yes." A RCRA Hazardous Waste Part B Permit is **required** for this activity. Contact the appropriate office for your State for more information. The Federal regulations for owners and operators of permitted treatment, storage, and disposal facilities (TSDFs) are found in 40 CFR Parts 264, 265, 266, and 270.

Mark "No" if any of the following conditions are true for your facility:

- This facility does not receive hazardous waste from other generators and ships all waste off-site for management within the regulatory timeframe.

- This facility is only involved with on-going post-closure activities, corrective actions under the Hazardous and Solid Waste Amendments of 1984 (HSWA), or a consent order under a non-traditional permit or without a RCRA permit being required.
- Receives waste from off-site but does not store greater than 10 days before re-shipping (i.e., transfer facility).

**NOTE**

If your site is a destination facility for universal wastes in addition to being a TSD facility for other RCRA hazardous wastes, mark "Yes" for both this box **and** Item 10.B.2.

## 7. RECYCLER OF HAZARDOUS WASTE (AT YOUR SITE)

If you recycle regulated hazardous wastes (recyclable materials) at your site, mark "Yes." The Federal regulations for owners and operators of sites that recycle hazardous waste are found in 40 CFR 261.6. You also may be subject to other Federal and State regulations; in some cases a permit is required.

**NOTE**

If your site, in addition to being a recycling site for hazardous waste, is a treater, storer, or disposer of hazardous waste, mark "Yes" for both this box **and** Item 10.A.6. If your site is a destination facility for universal wastes in addition to being a recycling site for other RCRA hazardous wastes, mark "Yes" for both this box **and** Item 10.B.2.

## 8. EXEMPT BOILER AND/OR INDUSTRIAL FURNACE (AT YOUR SITE)

If "Yes," place an "X" in all that apply.

### a. Small Quantity On-Site Burner Exemption

You burn small quantities of hazardous waste in an on-site boiler or industrial furnace in accordance with the conditions in 40 CFR 266.108, place an "X" in the box to indicate that you qualify for the Small Quantity On-Site Burner Exemption.

### b. Smelting, Melting, and Refining Furnace Exemption

You process hazardous wastes in a smelting, melting, or refining furnace solely for metals recovery, as described in 40 CFR 266.100(d), or to recover economically significant amounts of precious metals, as described in 40 CFR 266.100(g), or if you process hazardous wastes in a lead recovery furnace to recover lead, as described in 40 CFR 266.100(h), place an "X" in the box to indicate that you qualify for the Smelting, Melting, and Refining Furnace Exemption.

## 9. UNDERGROUND INJECTION CONTROL (AT YOUR SITE)

If you generate, treat, store, or dispose of hazardous waste and place the waste or its residuals into an underground injection well (e.g., a Class I well) located at your site, mark "Yes." The Federal regulations for owners and operators of underground injection wells are found in 40 CFR Part 148.

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[pages omitted]

## DEFINITIONS

This section contains definitions of terms helpful for completing the form. For terms defined in the Code of Federal Regulations (CFR), the appropriate citation is provided.

**ACCUMULATION** – A site that does not hold RCRA Interim Status or a RCRA permit may accumulate hazardous waste for a short period of time before shipping it off-site. The waste must be accumulated in either tanks or containers; it may not be accumulated in surface impoundments.

Generators of more than 1,000 kilograms (kg; 2,200 pounds [lbs]) of hazardous waste per month may accumulate their waste for up to 90 days before shipping it off-site. Generators of 100 kg (220 lbs) to 1,000 kg (2,200 lbs) of hazardous waste per month may accumulate their waste for up to 180 days before shipping it off-site. If the nearest treatment, storage, disposal, or recycling facility to which they can send their waste is more than 200 miles away, they may accumulate their waste for 270 days. See 40 CFR 262.34.

**ACT OR RCRA** – The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. Section 6901 *et seq.*

**ACUTE HAZARDOUS WASTE** – Any hazardous waste with an EPA hazardous waste code beginning with the letter “P” (40 CFR 261.33(e)) or any of the following “F” codes: F020, F021, F022, F023, F026, and F027 (40 CFR 261.31). These wastes are subject to stringent quantity standards for accumulation and generation (40 CFR 261.5(e)).

**AUTHORIZED REPRESENTATIVE** – The person responsible for the overall operation of the site or an operational unit (i.e., part of a site), e.g., superintendent or plant manager, or person of equivalent responsibility.

**AUTHORIZED STATE** – A State that has obtained authorization from the EPA to direct its own RCRA program.

**BOILER** – An enclosed device using controlled flame combustion and having the following characteristics:

- The unit has physical provisions for recovering and exporting energy in the form of steam, heated fluids, or heated gases;
- The unit’s combustion chamber and primary energy recovery section(s) are of integral design (i.e., they are physically formed into one manufactured or assembled unit);
- The unit continuously maintains an energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel;
- The unit exports and utilizes at least 75 percent of the recovered energy, calculated on an annual basis (excluding recovered heat used internally in the same unit, for example, to preheat fuel or combustion air or drive fans or feedwater pumps); or
- The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in 40 CFR 260.32.

**BY-PRODUCT MATERIAL** – A by-product material is (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and (2) the tailings or wastes produced by the

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[pages omitted]

remove the water and reduce the remaining residues to a safe, non-burnable ash that can be disposed safely on land, in some waters, or in underground locations).

**INDUSTRIAL FURNACE** – Any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy: cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, and refining furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; halogen acid furnaces, as defined under industrial furnace in 40 CFR 260.10; and such other devices as the Administrator may add to this list.

**INTERIM (PERMIT) STATUS** – Period during which the owner/operator of an existing TSD facility is treated as having been issued a RCRA permit even though he/she has not yet received a final determination. An existing facility should have automatically qualified for interim status if the owner/operator filed both timely “notification” and the first part (Part A) of the RCRA permit application. Interim status continues until a final determination is made to issue or deny the permit. Owner/operator of new facilities cannot by definition qualify for interim status; rather, they need a RCRA permit prior to beginning construction of a hazardous waste management facility.

**LARGE QUANTITY GENERATOR (LQG) OF HAZARDOUS WASTE** – is a generator who generates any of the following amounts in a calendar month:

- (i) Greater than or equal to 1,000 kilograms (kg; 2,200 pounds [lbs]) or more of hazardous waste;
- or
- (ii) Greater than 1 kg (2.2 lbs) of any acute hazardous wastes listed in §§ 261.31 or 261.33 (e); or
- (iii) Greater than 100 kg (220 lbs) of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in sections 261.31 or 261.33(e).

**LARGE QUANTITY HANDLER OF UNIVERSAL WASTE (LQHUW)** – A universal waste handler (as defined in 40 CFR 273.9) who accumulates 5,000 kilograms (kg) or more total of universal wastes (batteries, pesticides, mercury-containing equipment, or lamps – calculated collectively) at any time. This designation is retained through the end of the calendar year in which the 5,000 kg limit is met or exceeded.

**MANAGEMENT, OR HAZARDOUS WASTE MANAGEMENT** – Systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, or disposal of hazardous waste (40 CFR 260.10).

**MANIFEST, UNIFORM HAZARDOUS WASTE** – The shipment document EPA Form 8700-22 and, if necessary, Form 8700-22A, originated and signed by a generator in accordance with the instructions included in the Appendix to 40 CFR Part 262. The “cradle-to-grave” paperwork must accompany a shipment of hazardous waste as it moves from the generator to the transporter and eventually to the hazardous waste management facility.

**MIXED WASTE** – Waste that contains both hazardous and source, special nuclear, or by-product material subject to the Atomic Energy Act (AEA), RCRA section 1004(41), 42 U.S.C. 6903 (63 FR 17414; April 9, 1998).

**MUNICIPALITY** – A city, village, town, borough, county, parish, district, association, Indian tribe or authorized Indian tribal organization, designated and approved management agency under Section 208 of the Clean Water Act, or any other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

**OFF-SITE FACILITY** – A hazardous waste treatment, storage, disposal, or recycling area located at a place away from the generating site.

**OFF-SPECIFICATION USED OIL BURNER** – A site where used oil not meeting the specification requirements in 40 CFR 279.11 (off-specification used oil) is burned for energy recovery in devices identified in Section 279.61(a).

**OFF-SPECIFICATION USED OIL FUEL** – Used oil fuel that does not meet the specification provided under 40 CFR 279.11.

**ON-SITE FACILITY** – A hazardous waste treatment, storage, disposal, or recycling area located on the generating site.

**ON-SPECIFICATION USED OIL FUEL** – Used oil fuel that meets the specification provided under 40 CFR 279.11.

**OPERATOR** – The person responsible for the overall operation of a RCRA site. Note: This is the legal entity which controls the RCRA site operation rather than the plant or site manager. This is usually a company or business name, not an individual. See **Person**.

**OWNER** – The person who owns a RCRA site or part of a RCRA site. Note: This includes the owner(s) of the building(s) and/or land. This may be an individual, company, or business name. See **Person**.

**PERSON** – An individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

**RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)** – The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (RCRA) (40 CFR 270.2). It is the Federal statute that regulates the generation, treatment, storage, disposal, recycling, and/or transportation of solid and hazardous waste.

**RCRA INTERIM (PERMIT) STATUS** – Refer to “Interim (Permit) Status” definition.

**RCRA PERMIT** – A complete RCRA permit is comprised of an operating permit for hazardous waste treatment, storage, and disposal, and a corrective action permit addressing releases from solid waste management unit (SWMUs). To apply for a permit, a site must file a two-part application (Part A and Part B). A facility is not considered to have a complete RCRA permit until both parts have been issued.

**RCRA SUBTITLE C SITE (RCRA SITE OR SITE)** – The physical plant or location at which one or more of the following regulated waste activities occurs: the generation, transportation, treatment, storage, or

disposal of hazardous wastes; recycling of hazardous wastes; U.S. importer of hazardous waste; mixed waste (hazardous and radioactive) generator; exempt boiler and/or industrial furnace burning or processing hazardous waste; large quantity handler of or destination facility for universal wastes; disposing hazardous waste with an underground injection permit; the transportation (and temporary storage during transportation), processing/re-refining, burning, or marketing of used oil; eligible academic entity managing laboratory hazardous waste under Subpart K; facility managing hazardous secondary material being reclaimed that must comply with certain requirements and conditions; or undergoing corrective action.

A site may consist of several treatment, storage, or disposal operational units. For entities that only transport regulated wastes, the term site refers to the headquarters of that entity's operations.

**RECYCLING** – Use, reuse, or reclamation of a material (40 CFR 261.1(c)(7)). “Reclamation” is the processing or regeneration of a material to recover a usable product (e.g., recovery of lead values from spent batteries, regeneration of spent solvents) (40 CFR 261.1(c)(4)). A material is “used or reused” if it is either: (1) employed as an ingredient (including use as an intermediate) in an industrial process to make a product (e.g., distillation bottoms from one process used as feedstock in another process) (40 CFR 261.1(c)(5)). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary material); or (2) a commercial product (e.g., spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

**SMALL QUANTITY GENERATOR (SQG) OF HAZARDOUS WASTE** – is a generator if the site meets all of the following criteria:

- (i) Generates, in any calendar month, more than 100 kilograms (kg; 220 pounds [lbs]) but less than 1,000 kg (2,200 lbs) of RCRA hazardous waste; **and**
- (ii) Does not generate, in any calendar month, more than 1 kg (2.2 lbs) of acute hazardous waste listed in sections 261.31 or 261.33(e); **and**
- (iii) Does not generate more than 100 kg (220 lbs) of material from the cleanup of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in sections 261.31 or 261.33(e).

**SMALL QUANTITY ON-SITE BURNER EXEMPTION** – The persons who burn small quantity of hazardous waste in an on-site boiler or industrial furnace, in accordance with 40 CFR 266.108, are conditionally exempt from regulation for that activity.

**SMELTING, MELTING, AND REFINING FURNACE EXEMPTION** – Under 40 CFR 266.100(c), owners or operators of smelting, melting, and refining furnaces that process hazardous wastes solely for metals recovery are conditionally exempt from regulation, except for 40 CFR 266.101 and 266.112, provided they comply with limited requirements set forth in Section 266.100(c). Similarly, 40 CFR 266.100(f) provides that owners or operators of smelting, melting, and refining furnaces that process hazardous wastes for the recovery of precious metals are conditionally exempt from regulation, except for 40 CFR 266.112, provided they comply with limited requirements specified in Section 266.100(f).

**SOLID WASTE** – Any garbage, refuse, or sludge, or other materials not excluded under 40 CFR 261.4(a). Exclusions include, for example, domestic sewage and any mixture of other wastes that pass

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[pages omitted]